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July 7, 1992

Our File: 05057/002001

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Ms. Donna R. Searcy
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Federal Communications Commission
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Washington, D.C. 20554

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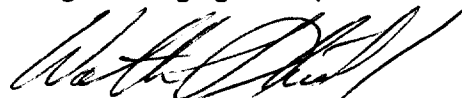
Billed Party Preference for 0+ InterLATA Calls
CC Docket No. 92-77

Dear Ms. Searcy:

Pilgrim Telephone, Inc. has noted some minor errors in the Comments it filed in the above matter on July 2, 1992 and hereby requests that the enclosed Comments of Pilgrim Telephone, Inc. be substituted for those earlier filed Comments.

The undersigned apologizes for any inconvenience this may cause the Office of the Secretary.

Very truly yours,



Walter Steimel, Jr.

/jbo

Enclosure

cc (w/encl.) Barbara Esbin, Esq.
Gary Phillips, Esq.

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OFFICE OF THE SECRETARY

In the Matter of
Billed Party Preference
for 0+ InterLATA Calls

Notice of Proposed Rulemaking
CC Docket No. 92-77

ORIGINAL
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COMMENTS OF PILGRIM TELEPHONE, INC.

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Dated: July 7, 1992

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In the Matter of
Billed Party Preference
for 0+ InterLATA Calls

Notice of Proposed Rulemaking
CC Docket No. 92-77

COMMENTS OF PILGRIM TELEPHONE, INC.

Pilgrim Telephone, Inc. ("Pilgrim"), by and through its attorneys, hereby files its comments regarding proprietary telephone credit cards¹ in the above-referenced rulemaking proceeding.² Pilgrim will be filing comments in this proceeding suggesting guidelines for implementation of billed party preference, but believes that proprietary calling cards are in the public interest, and effectively remedy many of the problems sought to be resolved by billed party preference. Pilgrim further believes that the Commission should not bow to the wishes of a few competitors of AT&T and other card issuers in order to thwart the choices of telephone consumers.

¹ Telephone calling credit cards are credit cards used primarily to charge for telecommunications services. Although they are credit cards, they are commonly referred to as "calling cards."

² Billed Party Preference for 0+ InterLATA Calls, CC Docket No. 92-77, Notice of Proposed Rulemaking, FCC 92-169, released May 8, 1992 (NPRM).

I. Introduction

Pilgrim is an interexchange carrier ("IC") providing a variety of 800, dial 1 and other services on an interstate basis. Pilgrim currently offers a non-proprietary calling card. Pilgrim believes that the public interest requires commentary by all interested parties so that the Commission may make an informed decision.

Pilgrim urges the Commission to not restrict the use and offering of proprietary calling cards, as such restriction would destroy the current competitive environment, frustrate consumer choice of operator service provider ("OSP"), interfere with business relationships and be inconsistent with past Commission exercise of jurisdiction.

II. Real Issue is Consumer Choice and Carrier Competition

Once the veneer of the complaining parties is removed, it is apparent that the real issue before the Commission is not whether the issuance of proprietary calling cards by AT&T and other carriers is anticompetitive, but whether OSPs should be able to frustrate consumer choice and coerce consumers to use OSP services when the consumer had intended to restrict its call to a particular carrier. OSP motivation in this proceeding is primarily to support a business relationship between the OSP and the owner of the

telephone, each of which may have only the most tenuous business relationship with the parties to the call.

The parties who object to the use of proprietary calling cards for 0+ calls are principally companies who have not issued such cards of their own and see the issuance and use of these cards as a competitive threat. Rather than issue their own cards, or directly compete in this market, they seek to meet the competitive challenge by relying on the Commission for protection and restricting issuers of these cards. This request is ironic in light of the attempts of the same parties in other proceedings to have the Commission diminish its role in regulating operator services.

III. Reasons for Rejecting Proposal

A. Consumer Choice Should be Preserved

An underlying purpose of the Commission's billed party preference proposal is to honor the consumer's choice of carrier. The use of proprietary calling cards is an easy way for consumers to ensure that their calls are processed by or under the authority of the carrier of choice. Proprietary cards thereby preserve consumer choice, consistent with the goals of this proceeding, over the forced use of OSPs resulting from presubscription. Pilgrim

believes that consumers should have the ability to choose their carrier, and not use carriers chosen for them by others.

Recent Commission actions have consistently promoted competition among carriers and choice for consumers. Consumers choose their carrier based upon a number of considerations. Among the considerations are cost, reliability, and comfort with the level of service received from a company. Many consumers may choose a carrier such as AT&T because they believe that if they have difficulties with their telephone service they can rely on the prestige of the carrier to resolve difficulties with local exchange or other carriers.

Consumers may wish to deal exclusively with one carrier to insulate themselves against unscrupulous behavior, preserve their anonymity and/or protect against toll fraud. Articles have been written about the unscrupulous behavior of some OSPs. Customers have a legitimate interest in protecting themselves from these companies. Consumers may also be concerned that an OSP may take billing information and convert it for its own marketing use. In light of the current problems related to toll fraud, consumers may also want to limit their use to one carrier to minimize the risk of toll fraud loss. Customers have a legitimate interest in choosing those with whom they have a business relationship.

Finally, a consumer placing a call may have a need to use a particular carrier. It is no secret that different carriers offer different qualities of service, some using higher quality lines or more optic fiber than others. Consumers requiring higher quality service, whether due to hearing sensitivities or data transmission requirements, may desire to choose a particular carrier, whether or not they are paying for the call. The Commission should not implement rules which would frustrate these choices.

B. Commission Should Not Interfere in the Competitive Environment for Calling Cards and Operator Services

Proprietary calling cards are offered in a healthy competitive environment with which the Commission should not interfere. As evidence of the intense competition for calling card customers, many of the LECs have made a great effort to advertise and promote line based cards. Shortly after AT&T began the promotion of its proprietary cards, NET began the extensive promotion of its line based cards, specifically noting in its advertisements that the new AT&T card would not route calls through anyone else. There is no need for the Commission to become involved in the active and competitive market of carrier credit card issuance.

The choice provided by both proprietary and non-proprietary calling cards enhances consumer focused competition.

Consumers may carry both proprietary and non-proprietary cards, and desire to use each for different reasons. As consumers are not limited from carrying or using just one card, the availability of both proprietary and non-proprietary cards in the marketplace expands consumer choice based upon the provision of related services. Competition is thereby shifted to the service provided under each card, and removed from presubscription arrangements, consistent with the goals of the NPRM.

Furthermore, the Commission should separate issues of misleading advertising from the other issues raised in this proceeding. Many of the parties appear intent on confusing these issues in order to justify rule revisions which best meet their individual needs, but which are not the best solution to the problem at hand. There is no evidence of misleading advertising, and market forces appear to be handling consumer information appropriately. In addition, the Commission, through its information releases, can assist in informing the public of its choices.

C. Commission Regulations in this Area Would Interfere with Right to Contract with Company of Choice

Adoption of the proposal would interfere with a number of voluntary business relationships. Under the proposal, carriers such as AT&T would either have to refuse the traffic of their own customers or do business with companies with which they may not

desire to have a business relationship. AT&T may have legitimate reasons for avoiding relationships with some OSPs, among which could be protecting its customers from the unscrupulous practices of some of these companies, and protection of the identities of some of its customers. Likewise, the Commission should not interfere with the ability of consumers to choose the carriers or OSPs with which they will do business.

D. Jurisdiction

The Commission has regularly recognized in the past that it does not have jurisdiction over calling cards, but only over the telecommunications services provided by carriers. The Commission has also steadily withdrawn from regulating billing and collection services. The OSPs are attempting to blur the distinction between the cards and the underlying services and reinvolve the Commission into these issues for their own competitive purposes -- purposes which are, by and large, not consistent with the interests of consumers or in the public interest. The Commission should not be enticed into regulating billing and collection services which are not provided by the local exchange carriers.

IV. Conclusion

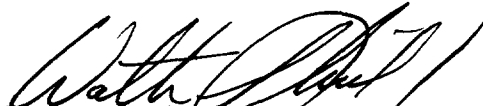
Pilgrim endorses the establishment of billed party preference, as will be explored in a subsequent filing, and

permitting the billed party to have control over the carrier with whom it will have a business relationship. Adoption of the proposal concerning proprietary cards, however, is a transparent attempt to further remove control from customers and place it in the hands of OSPs who attempt to hold customers captive to telephones for the private benefit of those OSPs and the telephone owners. This proposed solution would move away from the billed party preference proposals, frustrate consumer choice, introduce another layer of changes to confuse consumers, and is not in the public interest.

July 7, 1992

Respectfully submitted,

PILGRIM TELEPHONE, INC.



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CERTIFICATE OF SERVICE

It is hereby certified that copies of the foregoing
COMMENTS OF PILGRIM TELEPHONE, INC. were hand-delivered this 7th
day of July, 1992, to the following:

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Federal Communications Commission
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Washington, D.C. 20554

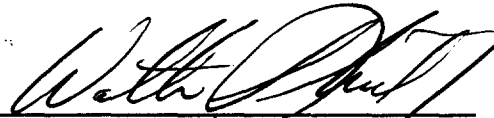
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